



CDPHE – Region 8 Meeting

November 17, 2017

Air Pollution Control Division

Need for flexibility in removing or modifying outdated State Implementation Plan provisions:

Colorado has a long history of developing and implementing SIP provisions to address various ambient air quality issues. As air quality challenges have changed, some of the provisions no longer provide meaningful air quality benefits, but continue to impose administrative burdens on the state and the regulated community. Because of excessive concerns over potential backsliding, Colorado has either been unable to make SIP changes to address outdated provisions. By taking a reasonable approach to modifying the SIP, Region VIII can help Colorado update its SIP to eliminate or modify unnecessary requirements and allow the State to focus on air quality requirements that most effectively address current challenges.

Addressing ozone concentrations to account for factors outside Colorado's control:

Colorado's most pressing air quality issue involves high ozone concentrations along Colorado's Front Range. While Colorado has been, and continues to be committed to developing strategies to reduce ozone concentrations, much of the ozone pollution along the Front Range is due to emissions outside of Colorado's control. In particular ozone concentrations from exceptional events and international transport can contribute significantly to high ambient ozone levels in Colorado. Mechanisms in the Clean Air Act allow states and EPA to consider these emissions. Consistent with the Clean Air Act, Colorado would like to work with Region VIII to ensure that these emissions are appropriately handled in connection with any determinations regarding both the attainment status of the Front Range and whether the area should be bumped up to be "Serious" non-attainment area.

Ongoing collaboration with Region VIII on oil and gas issues:

Colorado and Region VIII have a long history of working together on oil and gas issues. Colorado hopes that this collaboration can continue and evolve so as to best address both Colorado's and EPA's priorities.

Division of Environmental Health and Sustainability

Supplemental Environmental Projects (SEPs):

SEPs are projects that benefit the environment or public health, funded through environmental enforcement actions. Most enforcement settlements include monetary penalties and in some cases, may be used to mitigate a portion of a penalty. SEPs:

- Create measurable environmental or public health impacts.
- Benefit the geographic area impacted by the violation.
- Do not require a media nexus (for example, an air violation settlement may include a SEP to benefit water quality).

Since 2012, CDPHE has approved more than \$7.3 million in SEPs bringing substantial benefits to Colorado communities. Example projects include: improving energy efficiency in schools, restoring waterways impacted by fire or historic mining, weatherizing homes for low income residents, supporting environmental education and youth green jobs training programs.

Greening Government:

The daily activities of state government have a significant impact on the quality of Colorado's public health, environment and economy. Through a series of executive orders starting in 2003, the State of Colorado has led by example in reducing energy consumption, increasing the use of renewable energy, decreasing the environmental impact of state vehicles, and reducing greenhouse gas emissions. CDPHE has been on the leading edge of state agencies implementing activities to make more efficient use of taxpayer resources. These efforts have resulted in the following reductions over our baseline year of 2015.

- 8.3% reduction in energy usage.
- 8.1% reduction in petroleum fuel usage - even while expanding the fleet by 10%!

Furthermore, CDPHE diverts more than 55% of its waste through recycling and composting efforts and purchases only 100% post-consumer recycled content copy paper.

Environmental Leadership Program:

The Environmental Leadership Program (ELP) is CDPHE's statewide environmental recognition and reward program which offers benefits and incentives to members that voluntarily go beyond compliance with state and federal regulations and are committed to continual environmental improvement. The program has grown significantly in recent years, more than tripling the number of Gold level members from 33 in 2008 to 117 in 2017. To be recognized as Gold leaders, entities must maintain a clean compliance record for at least 3 years, implement a fully functional Environmental Management System (EMS), demonstrate past environmental achievements and establish future environmental improvement goals with measurable metrics.

In addition to implementing projects at their own facilities, Gold leaders also participate in mentoring activities, offering assistance to other companies to help them achieve a higher level of environmental performance. For example, Cavendish Scott, the City of Fort Collins and Denver Water all assisted companies with EMS training and West Star Aviation mentored the Mesa County School District, allowing them to be recognized this year as Gold leaders themselves.

Colorado Medication Take-back Program:

The average American household possesses four pounds of unused, unwanted and out-of-date medicines and prescription medications. To help reduce prescription drug misuse, Colorado has been proactive in developing a state-wide medication take back program. Funded through the state's General Fund, the take-back program currently has established 71 permanent drop boxes in 43 counties around the state with the goal of having at least one box in all 64 Colorado counties by July 2018. Through August 2017, the program has collected more than 11,000 lbs. of unused medications for proper disposal.

Hazardous Materials and Waste Management Division

Duplication of Efforts on Radioactive Materials License sites/CERCLA-NPL sites:

There are two remediation sites in Colorado that are regulated by both a Colorado radioactive materials license and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). These sites are the Cotter Canon City Mill and the Umetco Uravan site. The Department believes attempting to implement both radioactive materials licensing requirements and the requirements of CERCLA causes conflicting regulatory requirements. In 2002, EPA acknowledged these conflicts and suggested deferral to the radioactive materials licensing requirements in a memorandum of understanding signed by the EPA and US Nuclear Regulatory Commission (NRC) which states "Since September 8, 1983, EPA has generally deferred listing on the CERCLA National Priorities List (NPL) those sites that are subject to NRC's licensing authority, in recognition that NRC's actions are believed to be consistent with the CERCLA requirement to protect human health and the environment." As you know because Colorado is an Agreement State, the Colorado radioactive licensing requirements have authority instead of the NRC and are equivalent to the NRC requirements. Additionally, implementing CERCLA and radioactive license requirements results in duplication of effort, cost and time.

Lack of Regulatory Standard for PFAS:

This is an emerging contaminant issue. EPA developed a health advisory number for PFAS in drinking water in 2016. There is no current regulatory standard. This has left states in a bind and forced them to develop their own standards. Colorado is currently developing a site specific groundwater standard.

Continued coordination on Rocky Flats:

In a letter dated August 2, 2017, EPA Region 8 concurred with DOE's assessment in a Five Year Review that the remedy documented in the 2006 Record of Decision remains protective of human health and the environment. Also in August, the Colorado Central Cancer Registry issued an addendum to its cancer incidence study released in January 2017 both studies concluded that the overall rate of those cancers combined was not significantly different than cancer rates in the remainder of the Metro Denver area. In spite of these findings, activists, special interest groups, and news media have kept a spotlight on the Rocky Flats Site by focusing attention on: the projected 2018 opening of the Rocky Flats National Wildlife Refuge and the Greenway trails, the proposed Jefferson Parkway, construction at Candelas and nearby developments, self-reporting survey conducted by the Downwinders, lawsuits by consortia of activist groups, etc.

Potential Legislation for Small Landfills:

For many years, small rural landfills in Colorado have had very poor compliance with the regulatory requirements (both state and federal). We have been providing extensive compliance assistance for several years and have been transitioning to an enforcement posture in the last two years. One area of non-compliance of particular concern to us is adequate ground water monitoring. In 2017, we were awarded \$1.6 million by the Colorado Legislature to install adequate ground water monitoring systems at the small landfills. These systems should be installed by a CDPHE contractor in 2018.

Our enforcement posture has aggravated and angered the rural communities that operate small landfills to the point that they have now been able to interest Colorado Counties, Inc. (CCI) in running legislation. The latest concept statement from CCI for a bill is to exempt small landfills from state regulatory requirements so long as there was no confirmed ground water contamination.

If this legislation gets "legs", we will definitely want EPA to testify that, should the legislation pass, EPA will implement the federal rules at these small landfills and take whatever enforcement actions are necessary.

Water Quality Control Division

PFC issue in Security, Widefield, and Fountain:

The U.S. Environmental Agency (EPA) periodically requires public drinking water systems that serve more than 10,000 people to sample for selected contaminants of emerging concern and uses the information to regulate contaminants in the future under the federal Safe Drinking Water Act. In October 2015, EPA released the latest results from its national sampling program. Data indicated that samples from public water sources tests taken southeast of Colorado Springs near Fountain Creek and Windmill Gulch, detected Perfluorinated Compounds (PFCs). EPA subsequently issued a health advisory in May 2016, and CDPHE has been involved in coordinating with the effected water systems and responding to this issue since that time. Currently, CDPHE is looking adopting a site specific groundwater standard related to PFCs in order to establish control criteria for those contaminants. The proposed rulemaking for this standard will occur in April 2018.

Lead and copper rule compliance in CO:

The lead and copper rule (LCR) is one of the most complex and challenging regulations that we implement in the water quality arena. Since the incidents in Flint, MI, all states including Colorado have been involved in reviewing our LCR compliance and report those findings to EPA and other agencies. Colorado completed that review and reporting requirements and we have been involved in the restructuring of the LCR at the national level. In addition, Denver Water had some LCR action level exceedences and we have been working closely with them regarding the LCR optimization study that the rule required them to complete. The division received Denver Water's proposal in September 2017, and we have 180 days to complete our review.

Abandoned mine work in the CO mineral belt and the West:

The Mine Impacted Streams Task Force was formed in September 2015 to determine the extent and magnitude of water quality impacts due to abandoned mines and to drive water quality improvements from abandoned mine pollution control projects. The division was instrumental in developing the Abandoned Mines Lands Information Hub which is a cloud-based map viewer with more than 50,000 records. This is the combined efforts of more than a dozen federal, state and local organizations. In addition, we completed the abandoned mines water quality study. This study is a collaborative effort focused on water discharged from 145 abandoned mines that could impact Colorado lakes and streams. We are now working with interested parties on potential next steps.

Nutrients:

Colorado recently adopted a voluntary incentive program to encourage wastewater treatment plants to voluntarily reduce the nutrients in their effluent. We believe this is consistent with EPA's nutrients strategy to encourage states to find innovative solutions to this complex issue. We would like EPA to express support for the program in writing. Also, Colorado submitted numeric nutrient criteria to EPA in 2012, but EPA did not act on several of them. Colorado will be working over the next 10 years to refine them, and we would like to make sure that the technical staff in Region 8 continue to participate in those efforts so that when we resubmit refined criteria they are developed in a way that EPA will be able to approve them.

EVRAZ Rocky Mountain Steel:

Salt Creek, a small tributary to the Arkansas River just downstream of Pueblo, has been used for over a century as an industrial sewer by the CF&I Steel Mill (now operated by EVRAZ). The issue of whether or not Salt Creek is "state waters" arose in the context of the June 2013 rulemaking hearing for the Arkansas Basin (Regulation No. 32). In that hearing, the division and EVRAZ agreed to jointly study the area to determine what are the appropriate classifications and standards. By agreeing to work with the WQCD on this issue, EVRAZ did not concede that Salt Creek is state waters, and may assert its position that Salt Creek is not state waters in a future forum. The Water Quality Control Commission (WQCC) adopted a temporary modification of all standards of "current condition" to expire on December 31, 2018, to allow time for the study regarding the appropriate classifications and standards for Salt Creek. If Salt Creek is waters of the state, EVRAZ may be required to treat its effluent to meet water quality standards and may face significant costs to clean up and change their operation to comply with hazardous waste requirements under its current corrective action.